

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA

Plaintiff,

v.

B4B EARTH TEA LLC, a limited liability company;

B4B CORP., a corporation; and

ANDREW MARTIN SINCLAIR, individually  
and as an officer of B4B EARTH TEA LLC and  
B4B CORP.,

Defendants.

**AFFIRMATION IN SUPPORT  
OF UNITED STATES' RE-  
QUEST FOR CERTIFICATE  
OF DEFAULT AGAINST DE-  
FENDANTS B4B EARTH TEA  
LLC AND B4B CORP.**

**Civil Action No.: 22-CV-1159**

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I, Michael S. Blume, hereby declare as follows:

1. I am attorney of record for Plaintiff the United States of America in this action, *United States of America v. B4B Earth Tea LLC, B4B Corp, and Andrew Martin Sinclair*, E.D. NY. No. 22-cv-1159. I have personal knowledge of the facts stated herein.
2. This action was commenced pursuant to the FTC Act, 15 U.S.C. § 45(a), § 45(m)(1)(A), § 52, and § 57a(a)(1)(B), the COVID-19 Consumer Protection Act, Pub. L. No. 116-260, Title XIV, § 1401(b)(1), and the Federal Food, Drug, and Cosmetic Act ("FDCA"), 21 U.S.C. § 331(d).
3. On March 8, 2022, I caused to be sent requests for waiver of service of the Summons and Complaint in this action to B4B Corp., B4B Earth Tea LLC, and Andrew Martin Sinclair.

4. On March 18, 2022, Mr. Sinclair signed all of the waivers by himself, and subsequently returned copies of each. I filed these waivers with the Court on April 4, 2022. Dkt. 5.
5. On April 7, 2022, all Defendants received an extension to June 7, 2022, in which to file an answer to the Complaint. April 7, 2022 Minute Order of Magistrate Judge Levy.
6. On June 1, 2022, Defendant Sinclair filed two motions to dismiss on his own behalf, but those motions were not filed on behalf of B4B Earth Tea LLC or B4B Corp. Dkt. 12, 13; *see also* Dkt. 36 (Mem. & Op. Denying Motions to Dismiss) at 3, 5, 7, 8 (“Sinclair contemporaneously filed two motions directed at the complaint which, as previously indicated, the Court construes as a unitary Rule 12(b)(6) motion to dismiss . . . . Sinclair’s argument . . . . in his motion . . . . Sinclair’s motion . . . . defendant’s motion to dismiss is denied.”).
7. On December 7, 2023, the Court denied Defendant Sinclair’s motion to dismiss. Dkt. 36. Even if Defendant Sinclair had filed the motions to dismiss on behalf of B4B Earth Tea LLC and B4B Corp., these corporate defendants would have been required to file an answer to the complaint within 14 days of the Court’s denial of the motion to dismiss – by December 21, 2023. *See* Fed. R. Civ. P. 12(a)(4)(A). B4B Earth Tea LLC and B4B Corp. have never filed an answer.
8. On December 20, 2022, the Court advised that “a corporation or LLC may not represent itself in federal court but must be represented by counsel.” Dec. 20, 2022 Ord. of Mag. J. Levy Granting Mot. Withdraw.
9. On June 18, 2023, the Court “reminded” Defendant Sinclair “that a corporation (including an LLC) cannot represent itself and B4B Earth Tea LLC and B4B Corporation will be in default if they are not represented by an attorney.” June 18, 2023 Ord. of Mag. J. Levy.

10. In November 28, 2023, the Court noted: “Mr. Sinclair was reminded that the corporation[s] will be found to have defaulted if not represented by an attorney.” Nov. 28, 2023 Min. Entry for Proceedings Before Mag. J. Levy.
11. On July 16, 2023, Defendant Sinclair informed the Court: “I accept your previous order to default the companies and move forward with myself pro se.” Dkt. 33 (July 16, 2023 Ltr. from Def. Sinclair to Mag. J. Levy).
12. The time for defendants B4B Earth Tea LLC and B4B Corp. to answer with respect to the complaint herein has expired.
13. Defendants B4B Earth Tea LLC and B4B Corp. have not answered with respect to the complaint, and the time for defendants B4B Earth Tea LLC and B4B Corp. to answer or otherwise move has not been extended beyond June 7, 2022, or for that matter, beyond December 21, 2023.
14. Defendants B4B Earth Tea LLC and B4B Corp. are not infants, incompetent, or presently in the military service of the United States.
15. Defendants B4B Earth Tea LLC and B4B Corp. are liable as alleged in the complaint herein for violations of the FTC Act, 15 U.S.C. § 45(a), § 45(m)(1)(A), § 52, and § 57a(a)(1)(B), the COVID-19 Consumer Protection Act, Pub. L. No. 116-260, Title XIV, § 1401(b)(1), and the Federal Food, Drug, and Cosmetic Act (“FDCA”), 21 U.S.C. § 331(d).

WHEREFORE, plaintiff United States of America requests that the default of defendants B4B Earth Tea LLC and B4B Corp. be noted and a certificate of default issued.

I declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge, information and belief, that the result claimed is justly due to plaintiff, and that no part thereof has been paid.

Dated: \_\_\_\_\_, 2024

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MICHAEL S. BLUME

Attorney for Plaintiff United States of America  
271 Cadman Plaza East, 7th Floor  
Brooklyn, New York 11201  
Telephone: (718) 254-6479  
Email: Michael.Blume@usdoj.gov